

MDs still the key to eliminating unfit drivers, jury decides

Whether they like it or not, physicians are the key to keeping unsafe drivers off the road, an inquest jury has determined. And as they do this job, they should not engage in demographic profiling because even though impairment “is more prevalent with age,” it can occur at any time.

The inquest concerned the death of 42-year-old Beth Kidnie in April 2000. Kidnie, who had been out for a walk in her Toronto neighbourhood, was run over and dragged for almost a kilometre under a car driven by 84-year-old Pilar Hicks. Witnesses said Kidnie had been walking across an intersection on a green light when she was struck. Hicks told police that she was completely unaware she had hit anyone.

Many of those present at the March inquest assumed the jury would recommend more stringent testing for elderly drivers. Immediately after the accident Justice Charles Lapkin had sentenced Hicks to 15 months of house arrest and urged the province to review the case because drivers “of a certain age” might pose a “high risk to society.”

At the inquest, the jury heard that Hicks had never shown signs of cognitive impairment. At 80 she passed mandatory road and written tests. At 83

she completed written and vision tests successfully. Three months before the accident, she passed those tests again.

So did the system fail? Hicks’ own physician, Dr. Filippa Meffe, told the jury: “There was no concern about Mrs. Hicks. She was highly functional and still is. If this could happen to her, this could happen to anyone.”

And that is probably why the jury decided not to target elderly drivers. Instead, it asked the Ontario Medical Association and province to develop a tool to screen for *any* driver who poses a potential danger. The jury said MDs should:

- be targeted by a campaign that teaches the importance of discovering a patient’s driving status and then include that information in the patient’s file;
- participate in developing and validating a diagnostic screening tool to identify patients who require more extensive testing of their ability to drive.

The government should:

- rely more on nonphysicians, such as occupational therapists, to help weed out unsafe drivers;
- consider a “graduated delicensing” program as an alternative to outright licence suspension;
- publicize the issues facing older/impaired drivers, including the availability of alternative transportation.

The report concluded: “The screening and evaluation should focus on medical condition without regard to age.”

Dr. Ted Boadway, executive director of health policy at the OMA, was pleased with the outcome. “Basically, the jury report promotes the system we recommended,” he said.

But Boadway, who appeared at the inquest as a witness, has no illusions about the stress physicians face because of fitness-to-drive issues.

“It puts a lot of strain on the doctor–patient relationship. I had a call from a doctor the week before the inquest. He had a husband and wife in his office and they refused to leave until he changed his [fitness-to-drive] decision. Fortunately, the vast majority accept the decision and realize that the first person the physician is protecting is the driver.”

Any law requiring mandatory testing based solely on age is vulnerable to a le-

gal challenge. This is one reason why Ontario eliminated the requirement for motorists over age 80 to submit to a mandatory road test every year. They now need only attend an education session every 2 years and — as Hicks did — pass a vision and written test. Most provinces have similar provisions.

At the same time, most provinces now legally require physicians to report potentially unsafe drivers. This means that responsibility for policing elderly drivers has essentially shifted from transport authorities to doctors. This, in turn, has triggered concern that physicians might be sued if they don’t tell a patient to stop driving.

However, there is no black-and-white test to verify competence. The CMA’s guidelines state: “The borderline is often hazy between a hazardous deterioration and a decline that can be compensated for by long experience and voluntary limitation of driving.”

Dr. Isra Levy, director of the CMA’s Office for Public Health, says detecting dementia is “an inexact science, and standard screening tools are widely criticized by geriatricians. Yet the Ontario legislation allows the physician no discretion. Anybody who is a potential risk must be reported, even if the condition is temporary or treatable with medication.”

Dr. Stewart Cameron, associate professor of family medicine at Dalhousie University, says the rigid reporting requirements can be cruel.

“I know of a patient who recovered his functionality, but the insurance company raised his premium so much because his licence had been temporarily suspended that he could no longer afford to insure his car. So he was robbed of his mobility, independence and self-esteem.”

Still, many doctors are quicker to report unfit drivers today. “As I get older,” says Dr. William Dalziel, chief of the Ottawa Regional Geriatric Program, “I find myself leaning more toward the public good than individual liberties.

“I am less willing to tolerate low levels of doubt, particularly since Canada is an increasingly litigious society.” — *Charlotte Gray, Ottawa; Patrick Sullivan, CMAJ*



Pilar Hicks, 84, received a 15-month house-arrest sentence after driving over and killing Beth Kidnie.